

Rural Affairs Committee
Wednesday 23 September 2026
5th Meeting, 2026 (Session 7)

Note by the Clerk on the Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 (SG/2026/193)

Overview

1. At this meeting, the Committee will take evidence from the Minister for Agriculture, Marine and the Islands and officials on the Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 (SG/2026/193) before debating a motion in the name of the Minister inviting the Committee to recommend that the Notice be approved.
2. This Notice is a document subject to parliamentary control. More information about the procedure and the Notice is summarised below:

Title of Notice: Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 (see Annexe for notice)

Laid under: section 37(4) of the [Animal Health and Welfare \(Scotland\) Act 2006](#)

Laid on: 2 September 2026

Lead committee to report by: 27 October 2026

Commencement: If approved, the Notice comes into effect on the day after the day it is approved.

Procedure

3. The Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 is a document subject to parliamentary control. The laying power for the Notice is section 37(7)(a) of the Animal Health and Welfare (Scotland) Act 2006, which states that “a notice revoking an animal welfare code— (a) requires to be laid before, and approved by resolution of, the Parliament”.
4. Under the Scottish Parliament’s Standing Orders (Rules 10.6.1 (a) and 10.10), the document is subject to affirmative resolution before it can be made. It is for the Rural Affairs Committee to recommend to the Parliament whether the Notice should be approved.
5. The Minister for Agriculture, Marine and the Islands, has, by motion [S7M-01087](#) (as set out in the agenda), proposed that the Committee should recommend the Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 be approved.

6. The Minister for Agriculture, Marine and the Islands will attend to explain the purpose and policy objective of the Notice and to answer any questions from members at agenda item 2. He will then be invited to speak to and move the motion seeking approval at agenda item 3. The formal debate on the motion may last for up to 90 minutes.
7. At the end of the debate, the Committee must decide whether it agrees or disagrees with the motion and then report to Parliament accordingly. Such a report need only be a short statement of the Committee's recommendations.

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered the instrument on 15 September and reported on it in its [4th Report, 2026](#).
9. The DPLR Committee made no recommendations in relation to the instrument but noted that the instrument was laid without any accompanying documents or other information. The Committee asked the Scottish Government for an explanation as to why the Code is being revoked, to give the Committee an understanding of the context. The Scottish Government provided this [information in response to the Committee's request for context](#). The DPLR Committee considered that it would have been helpful if the Scottish Government had given the Parliament this information when laying the document before the Parliament for its approval.
10. The Committee also highlighted the following observations regarding the legal context of the document to the Rural Affairs Committee, for its information:
 - Under the Animal Health and Welfare (Scotland) Act 2006, the procedures for making a Code and Guidance respectively are as follows. A Code requires to be laid in draft before the Parliament and is subject to approval by resolution of the Parliament. Guidance is not laid in Parliament or subject to any parliamentary procedure. Accordingly, there is a significant difference in the parliamentary scrutiny of a Code rather than Guidance. However, under the powers in the Act, the Scottish Government is not obliged to make either a Code or Guidance. Whether to do so is entirely a matter for the Scottish Government (subject to Parliament's approval, in the case of a Code).
 - As the Scottish Government's response states, "in common with the recently published guidance, the content of the Code is advisory in nature and includes advice regarding compliance with duties under Part 2 of the 2006 Act". To expand on this, the Committee notes that, while the Act provides that (in proceedings for a relevant offence) failure to comply with a Code may be relied upon as "tending to establish liability", and compliance may be relied upon as "tending to negative liability", the Act says nothing about the consequences of failing to comply with Guidance. This is recognised in the new Guidance. It explains that the guidance does not have legislative effect; the welfare advice in the guidance may be considered relevant by the courts in a prosecution of a welfare offence; but that, in some cases, the guidance may not have any bearing on the prosecution.

Purpose of the Notice

11. Equidae is the biological family of mammals commonly known as the horse family, which includes horses and donkeys.
12. The purpose of the Notice is to revoke the Code of Practice for the Welfare of Equidae, which was made by the Scottish Ministers under section 37 of the Animal Health and Welfare (Scotland) Act 2006 on 19 February 2009. The Code is being replaced by the [Welfare of Equids: Guidance](#).
13. The guidance is intended to help all those who care for equids to ensure that their fundamental health and welfare needs are met and was developed through collaboration across the Scottish equine sector, led by the Scottish Government and the National Equine Welfare Council.
14. In relation to any proceedings for an offence under Part 2 of the Animal Health and Welfare (Scotland) Act 2006, or under regulations made under section 26 or 27 of that Act, in relation to conduct which took place before the coming into force of this Notice, the code continues to have effect for the purposes of sections 19(4)(b) and 37(9) of that Act.

Information received

15. On 3 September, the Minister for Agriculture, Marine and the Islands [wrote](#) to the Convener to inform the Committee that the Scottish Government published new welfare guidance for equids on the Scottish Government's website on 25 August.
16. As a result of the publication of the guidance, the letter further notes that the Scottish Government laid a notice to revoke the 2009 Code before the Scottish Parliament on 2 September. As set out above, the notice requires approval by resolution of the Parliament to take effect.
17. In bringing this to the attention of Committee, the Minister also apologised for the fact that this notification was not issued earlier. The Minister had intended for a letter to be sent to advise the Committee of the Government's intentions to publish the guidance and to revoke the 2009 Code by notice in early August. However, due to an administrative oversight, the letter was not issued.
18. The letter states "I fully recognise the need to ensure that the Committee is notified of such matters in an appropriate and timely manner and regret that this did not happen on this occasion."

Report

19. Following today's meeting, a draft report will be prepared by the clerks. Members will be invited to delegate to the Convener responsibility for approving the draft for publication (if members are content with a short, factual report only).

Clerks to the Committee
September 2026

Annexe

NOTICE

ANIMALS

The Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026

Made - - - - 1st September 2026

Laid before the Scottish Parliament 2nd September 2026

Coming into effect in accordance with article 1

The Scottish Ministers in exercise of the powers conferred by section 37(4) of the Animal Health and Welfare (Scotland) Act 2006⁽¹⁾, make the following Notice:

Citation and commencement

1. This Notice may be cited as the Code of Practice for the Welfare of Equidae (Revocation) (Scotland) Notice 2026 and comes into effect on the day after the day it is approved.

Revocation of the code relating to the welfare of Equidae

2. The code entitled “Code of Practice for the Welfare of Equidae”, which was made by the Scottish Ministers under section 37 of the Animal Health and Welfare (Scotland) Act 2006 on 19 February 2009 and approved by the Scottish Parliament on 25 March 2009⁽²⁾, is revoked.

Saving provision

3.—(1) Paragraph (2) applies in relation to any proceedings for an offence under Part 2 of the Animal Health and Welfare (Scotland) Act 2006, or under regulations made under section 26 or 27 of that Act, in relation to conduct which took place before the coming into force of this Notice.

(2) Where this paragraph applies, the code referred to in article 2 continues to have effect for the purposes of sections 19(4)(b) and 37(9) of the Animal Health and Welfare (Scotland) Act 2006.

JIM FAIRLIE

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
1st September 2026

⁽¹⁾ 2006 asp 11.

⁽²⁾ ISBN: 978-0-7559-8002-4 (<https://www.gov.scot/publications/code-practice-welfare-equidae/documents/>).